

MATTHEW J. HAFEY (SB # 167122)
NEMECEK & COLE
A Professional Corporation
15260 Ventura Blvd., Suite 920
Sherman Oaks, California 91403
Telephone: 818-788-9500
Facsimile: 818-501-0328

Attorneys for Plaintiffs
FILLMORE CONVALESCENT CENTER, LLC, and
A. EDUARDO GONZALEZ, an individual

UNITED STATES DISTRICT COURT,
CENTRAL DISTRICT OF CALIFORNIA - WESTERN DIVISION

FILLMORE CONVALESCENT
CENTER, LLC, a California limited
liability company; A. EDUARDO
GONZALEZ, an individual,

Plaintiffs,

vs.

CONTINUING CARE RISK
RETENTION GROUP, INC., a
corporation; MAGNOLIA LTC
MANAGEMENT SERVICES, INC., a
California corporation; MARIA
ARELLANO, by and through her
guardian ad litem JOSE ANGEL
ARELLANO and DOES 1 through 150,
inclusive,

Defendants.

Case No. 11CV4185-MMM (PWx)

**~~PROPOSED~~ ORDER REMANDING
TO THE SUPERIOR COURT OF THE
STATE OF CALIFORNIA, COUNTY
OF VENTURA**

WHEREAS on May 16, 2011, defendants CONTINUING CARE RISK
RETENTION GROUP, INC. ("CCRRG") and MAGNOLIA LTC MANAGEMENT
SERVICES, INC. ("MAGNOLIA") removed this matter from the Ventura County
Superior Court pursuant to 28 U.S.C. § 1332 (diversity jurisdiction) or, alternatively,
28 U.S.C. § 1331 (Federal question jurisdiction); and

///

1 WHEREAS in support of Defendants' Notice of Removal, CCRRG took the
2 position that it was a "citizen" of South Carolina for purposes of diversity; and

3 WHEREAS in support of Defendants' Notice of Removal, MAGNOLIA took
4 the position that it had been joined as a "sham" defendant, asserting that MAGNOLIA
5 was not a party to the insurance agreement at issue in this lawsuit and could not be
6 sued as the "alter ego" of CCRRG; and

7 WHEREAS in support of Defendants' Notice of Removal, they also asserted that
8 this matter arises under the Federal Liability Risk Retention Act, 15 U.S.C. § 3901 *et*
9 *seq.* and confers upon the Court Federal question jurisdiction pursuant to 28 U.S.C. §
10 1331; and

11 WHEREAS on June 9, 2011, this Court issued an Order Granting Plaintiff's
12 Motion to Remand in a related case, *Arellano v. CCRRG et al.*, U.S.D.C. Case No.
13 2:11CV1058 MMM (Pwx) (the "*Arellano* Federal Action") and determined that (a)
14 CCRRG was a California "citizen" for purposes of diversity jurisdiction; (b)
15 MAGNOLIA, a California citizen, had not been fraudulently joined as a defendant; and
16 (c) the Federal Liability Risk Retention Act as applied to this case does not confer
17 Federal question jurisdiction on the Court; and

18 Having considered the Stipulation of counsel and GOOD CAUSE APPEARING
19 THEREFORE, it is hereby ORDERED as follows:

20 1. This matter shall be remanded forthwith to the Superior Court of the State
21 of California, County of Ventura, and placed back on that Court's docket under the
22 original Case No., 56-2011-00394088;

23 2. The Clerk of the Court shall transmit a certified copy of this Order to the
24 Clerk of the Superior Court, along with certified copies of the Court's file;

25 ///

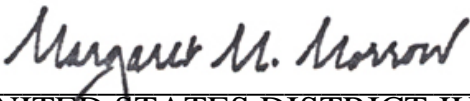
26 ///

27 ///

28 ///

1 3. The Answer filed May 27, 2011 by CCRRG and MAGNOLIA shall serve
2 as the Answer in the Superior Court pursuant to *Laguna Village, Inc. v. Laborers'*
3 *Internat. Union of North America* (1983) 35 Cal.3d 174.

4
5
6 Dated: June 15, 2011


UNITED STATES DISTRICT JUDGE